IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.437 of 1992
Date of Decision: 11.10.2006

Shardha Nand and others

Appellants

versus

State of Haryana and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

Present: Shri Siddharth Sanwaria, Advocate for
Ms.Vanita Sapra, Advocate for the appellants
Shri Amit Kaushik, AAG Haryana for respondent Nos.1 to 3
Shri Sandeep Suri, Advocate for respondent No.5

Jasbir Singh, J. (Oral)

This order will dispose of two appeals bearing FAO Nos.437 and 438 of 1992. For facility of reference, facts are being mentioned from FAO No.437 of 1992. In both the appeals, the prayer is for enhancement of compensation amount.

Briefly, it is case of the appellants that on 18.3.1990 at about 9.00 a.m., Shardha Nand – appellant/ claimant No.1 alongwith his wife Kamla and one Krishna, was going to the fields. Bus bearing No.HNA-8745 came from the side of Bhiwani and in the process of overtaking another bus, going ahead of it, hit Kamla and Krishna. Both the ladies were injured and ultimately died. Factum of accident and death of Kamla and Krishna in that accident is not in dispute.

The appellants, in this case, are the legal heirs/ dependents of Smt.Kamla. The Motor Accident Claims Tribunal, Bhiwani (in short the Tribunal), vide judgment dated 4.9.1991, had granted an amount of Rs.78,000/- along with pendente lite and future interest w.e.f. 2.4.1990 i.e.

when application for grant of compensation was moved by the claimants till recovery of the amount.

It was case of the claimants before the Tribunal that the deceased Kamla was working as a labourer in the fields and also doing the house hold work and was earning Rs.2500/- per month. As they had failed to produce the employer of the deceased, in the witness box, the Tribunal refuted their claim to the extent that Kamla was working as a labourer, however, by noticing that she might be doing house hold work, loss to the family was assessed at Rs.400/- per month.

This Court feels that the amount assessed is absolutely on the lower side. Even if the claimants have failed to prove that the deceased was working with somebody as a labourer, her income should have been assessed, by taking note of the minimum wages, being paid during that period to a labourer. As per information supplied at the bar by the State counsel, the minimum wages during that period may not be less than Rs.30/- per day. In this manner, it can be presumed that the deceased was earning not less than Rs.900/- per month. It can be presumed that she was spending Rs.200/- upon herself, as such, she might be giving Rs.700/- per month to the family members/ claimants, who are husband and four minor children. In this manner, loss caused to the family can be assessed at Rs.700/- per month. Admittedly, at the time of grant of compensation, age of the deceased was between 33 to 34 years. The Tribunal has applied a multiplier of 16 only. As per second schedule attached with the Motor Vehicles Act, 1988, in such like circumstances, multiplier of 17 is required to be applied and it is ordered accordingly.

Now, by taking note of above said fact, total amount of compensation payable to the claimants would come to Rs.1,42,800/-. They

are also held entitled to claim Rs.1200/- towards funeral expenses. Accordingly, claimants in FAO No.437 of 1992 are held entitled to get, towards compensation, an amount of Rs.1,44,000/- alongwith interest @ 10% per annum (simple) from the date of filing of application i.e. 2.4.1990 till recovery of the amount.

In FAO No.438 of 1992, the claimants are husband and minor children of the deceased. Facts are exactly the same and keeping in view that fact, the Tribunal has granted an amount of Rs.78,000/- towards compensation along with pendente lite and future interest from the date of moving application i.e. 2.4.1990 till recovery of the amount.

In this case also, death of Krishna in the accident, is not in dispute. It was averred by the claimants in their application that she was working as a labourer and also as a housewife and was getting an amount of Rs.2500/- per month. The Tribunal assessed loss to the family @ Rs.400/- per month. Admittedly, age of the deceased was about 35 years. In view of finding given in earlier part of this judgment, regarding amount of compensation in FAO No.437 of 1992, it is held that the claimants, in this case also, who are husband and three minor children, are entitled to claim an amount of Rs.1,44,000/- alongwith interest @ 10% per annum (simple) from the date of moving application i.e. 2.4.1990 till realisation of amount.

Liability of the respondents in both the cases is joint and several.

With the above-mentioned modifications, appeals stand disposed of.

October 11, 2006 **(Jasbir Singh)**
gk **Judge**